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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Enhance
the Role of Demand Response in Meeting
the State's Resource Planning Needs and
Operational Requirements.

Rulemaking 13-09-011
(Filed September 19, 2013)

**JOINT ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S
RULING PROVIDING GUIDANCE FOR 2017 DEMAND RESPONSE
PROGRAMS AND ACTIVITIES PROPOSAL FILINGS**

Summary

This Ruling provides expectations and guidelines for the contents of demand response program proposals for 2017 bridge funding. Not later than February 1, 2016, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall each file a proposal requesting Commission approval for 2017 demand response program and bridge funding authorization in compliance with this Ruling. Parties may then file comments to the proposals not later than March 2, 2016. As stated in Decision 14-12-024, a proposed decision will be issued in spring 2016 to consider bridge funding for 2017 demand response programs.

1. Background

The Commission stated in the Order Instituting Rulemaking (OIR) 13-09-011, and reiterated in Decision (D.) 14-03-026, that the ultimate goal of this proceeding is prioritizing demand response as a resource competitively

bid into the California Independent System Operator (CAISO) energy markets.¹ The Commission also emphasized in D.14-03-026 that bidding demand response into the CAISO market has been an objective of the Commission since the initiation of Rulemaking (R.) 07-01-041 in 2007.² Hence, we reiterate in this Ruling that it is the policy of the Commission that more demand response resources should be bid into the CAISO market.

In Decision (D.) 14-12-024, the Commission adopted a modified joint party proposal and set forth a series of actions toward 2018, the year of full implementation of bifurcation of demand response into load modifying and supply resources.³ In D.14-12-024, the Commission deemed that “the 2016 and 2017 years are viewed as transitional years.” Furthermore, the Commission stated a desire to incrementally change demand response programs during the transitional years.⁴ While D.14-12-024 confirmed that one of the steps toward full implementation of bifurcation would include the adoption of a decision authorizing bridge funding for 2017, the Commission underscored that as transitional years, 2016 should begin to see small steps toward bifurcation, 2017 should see bigger steps, and fully implemented bifurcation should occur in 2018.

2. 2017 Bridge Funding with Incremental Changes

Earlier in this proceeding, the Commission adopted D.14-01-004 and D.14-05-025. Together, the decisions approved two years (2015-2016) of demand

¹ OIR at 2 and D. 14-03-026 at 6.

² D.14-03-026 at Finding of Fact 17.

³ The Commission had previously adopted 2017 as the year that the Commission should implement the bifurcation of demand response programs into load modifying and supply resources. *See* D.14-03-026.

⁴ D.14-12-024 at 28.

response program bridge funding but with improvements to the programs. In D.14-05-025, the Commission noted that bridge funding typically allows programs to continue, with the same activities and budget, for a short and specific period of time; but the Commission concluded that it was “practical” to revise the demand response programs to improve their success.⁵

For the 2017 demand response program year, the Commission will also consider bridge funding but, as required by D.14-12-024, proposals for bridge funding should include an increased effort toward bifurcation⁶ and toward more demand response being bid into the CAISO market. In order to move 2017 demand response programs beyond the current programs and closer to bifurcation and more integration into the CAISO market, the Commission should provide clear guidance to Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE) (jointly, the Utilities). Therefore, this Ruling provides such guidance to the Utilities for incrementally advancing the demand response portfolios in 2017.

The guidance we provide in this Ruling is based on prior Commission decisions in this and related demand response proceedings as well as comments filed in response to an August 6, 2015 Ruling providing preliminary guidance. The following parties filed comments on August 26, 2015: CAISO, the California Large Energy Consumers Association (CLECA), Joint Demand Response Parties,⁷

⁵ D.14-05-025 at 8 and D.14-05-025 at Conclusion of Law No. 2.

⁶ D.14-12-024 at 40.

⁷ The Joint Demand Response Parties are EnerNOC, Inc., EnergyHub, Inc., Johnson Controls, Inc., CPower, and Comverge, Inc.

Nest Labs, Inc., Office of Ratepayer Advocates (ORA), PG&E, SDG&E, Sierra Club, SCE, and The Utility Reform Network (TURN).⁸

In comments, several parties requested clarity regarding the “intention of the 2017 transition year.” As previously discussed, the expectation for 2017 is to see larger steps toward bifurcation of demand response but more importantly, larger steps toward the integration of demand response into the CAISO market. We focus on this in the following discussion.

Parties contend that several necessary and related activities remain in motion, *i.e.*, the Demand Response Potential Study and the Demand Response Auction Mechanism and that the Commission does not have sufficient information from the results of those activities to move forward toward integration. We disagree. First, we recognize that several of the activities established in D.14-12-024 are not complete. However, in D.14-12-024, the Commission did not anticipate the activities to be completed by 2017, and yet the Commission was steadfast in its requirement for the Utilities to move forward in 2017 toward integration. Furthermore, we anticipate having additional information from the experience of all three Utilities, which are currently bidding demand response programs into the CAISO market. Hence, it is reasonable to expect the Utilities to have the ability to take bigger steps toward integration in 2017.

However, in the course of our review of the 2017 demand response improvement proposals, the Commission must balance the degree of movement toward integration with the acknowledgement that the Commission will be

⁸ Except where otherwise noted, all references in this Ruling are to the comments filed by parties on August 26, 2015.

authorizing bridge funding on a short-term review basis, and without evidentiary hearings.⁹ Hence, any demand response program improvement proposal resulting in material facts in dispute and thus requiring evidentiary hearings will not be considered.

3. Proposals for 2017 Demand Response Program Budgets and Program Improvements

As further described below, proposals for 2017 demand response program incremental advancements will include the following categories of changes:

- Program changes to enable market integration;
- Program changes for overall program improvement;
- Clarification of demand response portfolio contents; and
- Miscellaneous items.

3a. Enabling Market Integration

As directed in D.14-12-024, the main emphasis of incremental changes should be in this area. The Utilities shall include the following in their 2017 Demand Response Program Improvement Proposals:

1. Feasibility of CAISO market integration for each individual demand response program. For programs deemed feasible to be integrated into the CAISO market, the Utilities shall include a detailed description of the steps required to integrate the program and recommendations for program tariff and contract changes to enable market integration. (One example of this type of change may be shifting the Notice Window for the load modifying resources

⁹ Based on the comments to the preliminary guidance Ruling, several initially suggested proposal requirements have been deleted from this Final Guidance Ruling because a review of those requirements would either necessitate evidentiary hearings and/or more time than is available.

to earlier in the day to allow for day-ahead integration.) For programs deemed not feasible to be integrated, the Utilities shall provide an explanation of the barriers and include any potential barrier mitigation actions. For programs that the Utilities claim are partially integrated into the CAISO market, the Utilities shall explain the mechanisms in place to ensure compliance with dual participation rules.

2. Reliability Programs: In Decision 10-06-034, Ordering Paragraph 1.a, PG&E, SDG&E, and SCE were directed to address the integration of reliability (emergency) programs into the CAISO Reliability Demand Response Resource (RDRR), in their January 1, 2011 demand response program application filing. According to recently submitted Integration Reports, SCE has integrated its reliability programs into RDRR, but neither PG&E nor SDG&E have completed this integration.¹⁰ The fulfillment of this objective, consistent with D.10-06-024, should be a priority for both utilities.

In order to complete the integration of the reliability programs in a timely manner, PG&E and SDG&E shall each include in their 2017 demand response program proposals, a plan to complete the integration of reliability programs into RDRR no later than May 1, 2017.¹¹ The plan should identify all

¹⁰ SCE July 10, 2015 Integration Progress Report at 1, SDG&E July 10, 2015 Integration Progress Report at 3-4 and PG&E July 10, 2015 Integration Progress Report at 1 and 3. In comments, the ORA argued that because PG&E has experience bidding demand response into the CAISO market, it should be able to use that experience to integrate its reliability programs into the CAISO RDRR.

¹¹ SDG&E provided no comments on this question. PG&E stated that it will take 15 months to implement the integration of reliability programs into CAISO's RDRR. CAISO explained that because its RDRR tariff amendment was not formally approved by the Federal Energy Regulatory Commission until 2014, it is not unreasonable to shift the implementation timeline to the end of 2017. ORA argues that there is no reason why PG&E and SDG&E cannot complete

Footnote continued on next page

program, system, and or process changes needed in order to complete that integration, and to describe the timing and cost of implementation.

3. Recommendations for Pilots to address over-generation from renewables: In 2014, the Utilities funded a study investigating the relationship between renewables and over-generation. The study depicted a future of over-generation as more renewables are integrated into the grid. In D.14-05-025, the Commission authorized PG&E to perform an Excess Supply pilot, which also looks at the relationship between renewables and over-generation. The Utilities are encouraged to develop pilots that explore the solutions offered in the 2014 study and are not included in PG&E's Excess Supply pilot.¹²

Through comments to the August 6, 2015 Ruling, parties expressed a concern that "there is a strong predilection for all existing demand response programs to be integrated into the wholesale market." While we do not anticipate all demand response to be integrated into the CAISO market in 2017, we expect a much larger percentage than in past years. As we described previously, in 2016 we expect small increases in the amount of demand response integrated into the CAISO market, but in 2017 we expect bigger increases.

We also emphasize that parties may have misinterpreted our statement regarding the intention of the Commission not to devalue demand response

this integration using the same deadline as that required in the Demand Response Auction Mechanism (June 2016.)

¹² In comments, the Joint Demand Response Parties expressed concern regarding the complexity of creating a new program for the purposes of addressing over-generation. (Joint Demand Response Comments at 10.) We clarify that our intention was for proposals for a one-year pilot to build upon the other study and pilot mentioned above, all in preparation for 2018.

during the transition.¹³ Some parties appear to interpret the language such as to imply that the Commission should not alter programs, policies, or valuation methods. The intent of that language was to assure parties that the current programs and contracts would not be undercut mid-cycle, such that investments made in those programs and contracts would be stranded. We understand that concern and believe we have fulfilled our commitment to avoid such devaluation. However, extending that logic to a new program year with discreet guidance goes beyond the original intention. The Commission cannot and should not be expected to preserve demand response as if time and conditions cease to move beyond 2013 (the year the OIR was established) or even 2016 (the final year of the current bridge funding approved in 2014.) On the contrary, the public and stakeholders stand to benefit from the transition in demand response that is currently underway.

Finally, several parties argue that the Commission should not move forward with additional integration efforts before getting the results from the demand response auction mechanism. Again, we reiterate that the Commission will have data from the bidding experience of all three Utilities that can be used to inform 2017 adopted proposals and budgets.

As a result of comments, we have eliminated the requirement in the preliminary guidance ruling regarding program baselines. We find that litigating program baselines could require evidentiary hearings and result in a longer review time than is available.

¹³ For example, the Joint Demand Response Parties state that “it was the intent of the Commission not to devalue demand response during this transition.” *See* Joint Demand Response Parties Comments at 4 citing D.14-03-026 at Ordering Paragraphs 2 and 3.

3b. Overall Program Improvements

While the emphasis of 2017 demand response program changes will be on increasing market integration, the Utilities shall also continue to improve the programs in general. As such, the Utilities are directed to include the following general improvements in their proposals for 2017 demand response program advancements:

1. Cost-Effectiveness Protocols: As was the case with our review of bridge funding for 2015-2016 demand response programs, if proposed improvements to a program make any changes to cost-effectiveness inputs, the Utilities shall include a revised cost-effectiveness analysis for each of those demand response programs pursuant to D.12-04-045, and including two subsequent guidance documents: the January 2011 Energy Division Guidance on Cost-Effectiveness¹⁴ and the May 2012 Energy Division Guidance on Cost-Effectiveness.¹⁵ While revisions to the protocols are currently being reviewed for adoption, a final set of protocols will not be adopted in a sufficient amount of time to enable the Utilities to incorporate them in a February 1, 2016 proposal filing.¹⁶

¹⁴ <http://www.cpuc.ca.gov/NR/rdonlyres/92C54F59-8D88-446A-846A-1747628C0F33/0/GuidanceJanuary2011.pdf>

¹⁵ <http://www.cpuc.ca.gov/NR/rdonlyres/FD11FEED-C322-4164-8EFC-ABE6F188ABDA/0/GuidanceMay2012.pdf>

¹⁶ Those parties commenting on this issue noted the timing of the anticipated new protocols. The Joint Demand Response Parties underscored that the newly adopted protocols could result in discontinuity because existing programs were not designed with the new protocols in mind. SDG&E and SCE noted that even if the new protocols are adopted by the end of 2015, other issues could further delay their use, i.e., the timing of the new spreadsheet, and there would need to be time set aside to test for accuracy.

2. Automatic Demand Response (AutoDR)/Technology Incentives/Technical Assistance Programs: These programs and technologies are key factors in advancing demand response.¹⁷ The Utilities conducted evaluations of 2012 ADR programs; the results indicated serious performance and management problems. If the Utilities have not already done so, they shall include program changes focused on improving this set of programs.¹⁸
3. Overall Budget: Over the past several demand response budget cycles, the Commission Staff has witnessed a consistent practice of underspending (or over budgeting). The Utilities should consider reductions in budgets to correct this practice. The Utilities contend that the drivers behind the variances do not necessarily equate to program eliminations.¹⁹ Alternatively, the Utilities should consider other efforts to reduce budgets such as the consolidation of programs or increasing customer targeting.²⁰

The preliminary guidance Ruling included several other improvement guidelines, which, for the reasons discussed below, we have determined are not appropriate at this time.

First, we asked the parties to comment on the issue of fossil-fueled backup generation and whether the Commission should adopt a policy similar to that

¹⁷ TURN supported this review, noting that spending in this category of expenses accounted for 15 percent to 25 percent of actual 2012-2014 demand response program spending. *See* TURN comments at 4 and Appendix A.

¹⁸ SCE stated that they implemented changes in the ADR programs in 2014, as a result of the 2012 evaluation.

¹⁹ *See*, for example, SCE Comments at 15 and SDG&E Comments at 6-8.

²⁰ Joint Demand Response Parties Comments at 18.

approved in Resolution E-4728, which prohibits the use of fossil-fueled backup generation in the demand response auction mechanism. Upon review of the comments, we have determined that a bridge funding decision is not the appropriate venue for addressing the issue of fossil-fueled backup generation. Thus, we table this issue for now. However, we put the parties on notice that we are concerned about data collection issues that have arisen in the processing of the Advice Letter filed pursuant to D.14-12-024. We will address the fossil-fueled back-up generation data collection issues in a future Ruling.

Similarly, we asked parties to comment on the Permanent Load Shifting program and whether the Commission should consider a change in the funding source given the significant developments in the Commission's storage policies. Again, we have determined that a decision regarding bridge funding is not the appropriate venue for addressing a potentially controversial and technical issue. We will look at this issue again when providing guidance for demand response portfolios in 2018 and beyond. Hence, the Utilities should request to continue any Permanent Load Shifting programs in the demand response portfolio for 2017.

Finally, we asked parties to comment on whether the Commission should authorize the Utilities to continue funding the Aggregator Managed Portfolio (AMP) program contracts for 2016. ORA supports requiring the current AMP participants to bid in to the second demand response auction mechanism for 2017.²¹ PG&E states that the Commission has approved new Requests for Offers (RFOs) for AMP beginning in 2015 for 2017 and beyond and requests to

²¹ ORA Comments at 8.

authorize the Utilities to conduct RFOs annually.²² SCE requests the Commission to allow the continuation of funding for AMP contracts. The Joint Demand Response Parties contend that it is disruptive for both customers and aggregators to engage in a new RFP process for a single year of contract and funding renewal. We agree that revising the AMP contracts for a single year could be unreasonably disruptive, given that we anticipate great changes in requirements for the demand response portfolio beginning in 2018, including the potential dissolution of AMP contracts in favor of using the Demand Response Auction Mechanism. Hence, the Utilities should not include any requests for the Commission to consider contracts beyond the 2017 program year. Thus, in order to reflect the potential for future change, the Utilities should include, in their 2017 filing, proposals that balance the desire by the Commission for improvements in 2017 but take into account that 2018 and beyond will most likely require even bigger changes.

We take the opportunity here, to point out that the Joint Demand Response Parties misinterpret language from D.14-12-024. The Joint Demand Response Parties argue that D.14-12-024 states that future steps included “a decision authorizing bridge funding for 2017 for the existing utility programs, including their contracts with third-party demand response providers or aggregators.” We clarify that in D.14-12-024, the Commission determined that a future decision would *consider* (emphasis added) bridge funding for existing demand response programs, including funding for AMP contracts. Intending otherwise would prejudge a future Commission’s determination.

²² PG&E Comments at 9.

3c. Contents of the Demand Response Portfolio

The Utilities shall include the following in their 2017 proposals:

1. Complete budgets for the proposed 2017 demand response portfolios organized by the ten demand response funding categories that were adopted in D.12-04-045 as well as the subcategories used for the 2015-16 bridge funding budgets adopted in D.14-05-025 (Attachments 2, 3 and 4).
2. The anticipated 2017 megawatts for each proposed demand response program.
3. As was indicated in D.12-04-024, the demand response applications have not always included all demand response related programs and incentives. Include a list identifying all programs and incentives provided through demand response but established external to the 2012-2014 demand response application proceeding (Application 11-03-001 et al.). Pursuant to D.12-04-045, dynamic pricing programs (e.g., Critical Peak Pricing, Real-Time Pricing, and Time-of-Use rates) should not be included in the 2017 proposal.²³
4. A proposed schedule to consolidate all demand response programs and incentives into one demand response portfolio. As noted above, pursuant to D.12-04-045, dynamic pricing programs (e.g., Critical Peak Pricing, Real-Time Pricing, and Time-of-Use rates) should not be included in the 2017 proposal.

3d. Miscellaneous Requirements

Two items have been identified that require a Commission determination in the 2017 bridge funding budget authorization that cannot be postponed to the 2018 application cycle.

²³ D.12-04-045 at 138.

1. Customer Protection: Senate Bill (SB) 1414 (Ch.627, Statutes of 2014) requires that the Commission establish customer protection rules regarding program participation, cost of program participation, and ability to not enroll in the program. The Utilities shall include in their 2017 proposals:
 - a. Recommendations for additional or revised consumer protection rules for demand response programs available to residential customers that meet the criteria in code sections 380.5(a)(3) and (b).
 - b. A detailed description of any barriers to implementing these code sections, or possible unintended consequences.
 - c. If current consumer protection rules are sufficient, provide an explanation of how the current rules fulfill the requirements of Code Sections 380.5(a)(3) and (b).
2. Demand Response Study Funding: In D.12-04-045, the Commission authorized \$1M per fiscal year for the purpose of performing studies to advance the Commission's demand response goals. D.15-02-007 extended this funding to December 31, 2016. The Utilities shall provide an explanation of why the Commission should or should not continue this funding during the 2017 bridge funding year.

IT IS RULED that:

1. Not later than February 1, 2016, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall each file a proposal requesting Commission approval for 2017 demand response program and bridge funding authorization in compliance with the guidance provided in this Ruling.

2. Parties may file comments to the proposals not later than March 2, 2016.

Dated September 15, 2015 at San Francisco, California.

/s/ MICHEL PETER FLORIO
Michel Peter Florio
Commissioner

/s/ KELLY A. HYMES
Kelly A. Hymes
Administrative Law Judge